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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,620	10/11/2001	Egon Brauning	UL 3.0-014	8373
27614	7590	06/24/2004	EXAMINER	
RALPH W. SELITTO, JR. C/O MCCARTER & ENGLISH, LLP GATEWAY CENTER FOUR 100 MULBERRY STREET NEWARK, NJ 07102			HARRIS, STEPHANIE N	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/975,620

**Applicant(s)**

BRAUNING, EGON

**Examiner**

Stephanie Harris

**Art Unit**

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-23,25,29,30 and 32-50 is/are pending in the application.
- 4a) Of the above claim(s) 24,26-28 and 38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,17,21-23,25,29,30,32 and 34-37 is/are allowed.
- 6) ☒ Claim(s) 15,18,20,33,45 and 46 is/are rejected.
- 7) ☒ Claim(s) 19,39-44,47-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Cone (USPN 4598946).

Cone discloses a mounting for a seat as seen in Figure 9. The mounting comprises an annular elastic member (52), which inherently has an axial length, having an outer peripheral surface, with a first shape, and a passageway extending through the elastic member in an axial direction so as to define an inner peripheral surface as seen in Figure 9 (Col. 2, line 68- Col. 3, line 3). A core element (32) is positioned adjacent to and in contact with the inner peripheral surface of the elastic member (52) as seen in Figures 6, 7, and 9. The core element (32) has an axial through passageway, noted by the bolt, which passes through it as seen in Figure 6. An outer casing (located by element 28, and integral with element 24) is positioned adjacent to and in contact with the outer peripheral surface of the elastic member as seen in Figure 9. A top molding (24)

Art Unit: 3636

is connected to the outer casing. The elastic member is interposed between the core element and the outer casing.

Claims 15, 18, 33, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Ewers (USPN 3837610).

Regarding claim 15, the chair comprises a seat (12) with an under frame (15) connected to the seat. A mounting (30), which includes the annular elastic member, core element, and outer casing, is arranged on the under frame as seen in Figures 1, 2, and 4. The annular elastic member (50) has an outer peripheral surface, with a first shape, and forms a passageway that extends in an axial direction through the elastic members to define an inner peripheral surface (Col. 4, lines 18-23). The core element (36), forms an axial through passageway, is positioned adjacent to and in contact with the inner peripheral surface of the elastic member as seen in Figure 4. The outer casing (34) is positioned adjacent to and in contact with the outer peripheral surface along the entire axial length of the elastic member as seen in Figure 2. The outer casing has a second shape which is complementary to the first shape of the outer peripheral surface of the elastic member as seen in Figures 1, 2, and 4.

Regarding claim 18, the elastic member is interposed between the core element and the outer casing as seen in Figure 4.

Art Unit: 3636

Regarding claim 33, the core element (36) has an axial through passage as seen in Figure 4. The under frame includes a central column (26) as seen in Figure 1. The mounting is arranged on the central column as seen in Figure 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cone (USPN 4598946).

Cone has been described above. Cone shows all of the teachings of the claimed invention but fails to show the use of a core element that is made of metal.

Regarding claim 45, Cone discloses that the elastic member is made of rubber (Col. 2, lines 37-40; Col. 2, line 68- Col. 3, line 3).

It would have been obvious to one having skill in the art at the time the invention was made to a core element made of metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ416.

Art Unit: 3636

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ewers (USPN 3837610)

Ewers has been described above. Ewers shows all of the teachings of the claimed invention but fails to show the use of a core element that is made of metal.

Regarding claim 45, Ewers discloses that the elastic member is made of rubber (Col. 4, lines 18-23).

It would have been obvious to one having skill in the art at the time the invention was made to a core element made of metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ416.

#### ***Allowable Subject Matter***

Claims 19, 39-44, and 47-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16, 17, 21-23, 25, 29, 30, 32, and 34-37 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed 4/5/04 have been fully considered but they are not persuasive. In response to Applicant's argument that Cone does not disclose an axial through passageway, the Examiner is of the opinion that the bolt shown

Art Unit: 3636

in Cone passing through the core element shows that the core element has an axial passageway.

In response to Applicant's argument that Ewers does not show an annular elastic member, the Examiner respectfully disagrees. The Examiner is of the opinion that the four rubber balls do form an annular elastic member forming a passageway, which extends through the passageway.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 3pm.

Art Unit: 3636

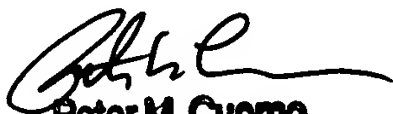
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SNH

June 7, 2004

Stephanie Harris  
Examiner  
Art Unit 3636

  
**Peter M. Cuomo**  
**Supervisory Patent Examiner**  
**Technology Center 3600**